

## REMARKS

By this paper, Applicant has amended claims 21 and 22. Applicant has not added or cancelled any claims. The independent claims remain claims 21 and 22. This amendment contains no new matter. Entry of this amendment is respectfully requested.

***Claim Rejections – 35 USC § 113******Examiner's Section 2. Claims 21-22***

The Examiner has rejected claims 21 and 22 under 35 USC § 112. The Examiner argues that the teaching of the specification is at odds with the amendment made in the last office action, and thus the amendment is not supported by the specification.

Applicant respectfully disagrees. The Examiner states at page 1, that "the fastening member is supported by parts 2, and 50, in addition to the device and the tension member."

With respect to the Examiner's statements concerning element 2 in Applicant's figure 1, Applicant believes the Examiner may have misunderstood the figures or made a typographical error. The claimed fastening member is identified by the number "2" (see page 7, line 17 of the specification as filed) and can consist of more than one member, and thus it does not make sense to reject the language in the amendment because the fastening member is supported by itself.

Applicant also believes the Examiner has failed to make a *prima facie* rejection by saying that element 50 also supports the claimed fastening member. Element 50 is a locking clip that restrains the bearing members and keeps them from expanding. Applicant fails to see how such a structural element could be considered to "support" the claimed fastening member.

Applicant respectfully requests that the rejection be removed.

***Claim Rejections – 35 USC § 103******Examiner's Section 2. Claims 21-22, 28-29 and 36***

The Examiner has rejected claims 21-22, 28-29 and 36 under 35 USC § 103 as unpatentable over Minutoli et al., U.S. Patent No. 3,782,061 ("Minutoli") in

view of Commins 459414913 C5 ("Commins") and Siemons, U.S. Patent No. 5,839,981 ("Siemons").

First, Applicant maintains its argument that it is not appropriate to combine Minutoli with Commins or Siemons. Applicants believe the Examiner has failed to make a *prima facie* case of obviousness, given the teachings of Minutoli.

As stated previously, Minutoli teaches away from making the combination suggested by the Examiner. Furthermore, neither Commins or Minutoli suggest modifying Minutoli. As such, the references do not suggest the combination.

Minutoli teaches an invention that "allows a multistoried building to be uniformly prestressed throughout in a simple manner, while avoiding the delay occasioned by the need to prestress the reinforcing rods corresponding to a single story of a building." Minutoli, column 1, line 18. Minutoli is not concerned with the compression states of elements 42 and 48 and 50, the sleeve and bushings. Minutoli is concerned with the compression states of the panels 12 and 14.

Since Minutoli is concerned with providing uniform prestressing along the length of rods 52 and 59, and not with the compression state of the bushings 48 and 50 and sleeve 42, the members that the Examiner describes as making up the fastening member of Minutoli (plate 26, nut 60 and "the part next to part 59 figure 2") can compress not only bushing 48 but also panel 16 and sleeve 42. Because the fastening member of Minutoli rests not only on the bushing 48, but panel 16 and sleeve 42, there can be situations when the resisting member of Minutoli places no compression on bushing 48. Thus, Minutoli teaches away from bushing 48 being under constant compressive forces from the fastening members of Minutoli.

Second, Applicant believes that the Examiner's statement at page 3 of the Office Action, line 6, that Minutoli teaches a "fastening member [that] is only supported by the expansion device and said elongated tension member" is incorrect. The elements of Minutoli that the examiner considers equivalent of the claimed fastening member (plate 26, nut 60 and "the part next to part 59 figure 2") are supported by elements other than the expansion device and the elongated tension member. In particular, second panel 16 of Minutoli supports lower anchor plate 26 of Minutoli.

Applicant has also amended claims 21 and 22 to make the distinction between Minutoli and the present invention more clear. Applicant has amended both claims to say that the "fastening member is only directly supported by said expansion device and said elongated tension member." In comparison, the fastening member of Minutoli, in addition to being supported by bushing 48, is directly supported by panel 16.

In the present invention, the positional relationship of the fastening member to the expansion device is determined solely by the position of the bearing member and the elongated tension member, and as such it can perform its function of maintaining the compression forces on the expansion device, and in turn maintain the compression forces on the resisting member.

Applicant by these arguments and this amendment, feels it has overcome the rejection raised by the Examiner of claims 21 and 22, and respectfully requests that the Examiner allow the claims. As claims 28, 29 and 36 depend from claim 22, Applicant feels they too are now in condition for allowance.

Furthermore, with respect to claim 23, Applicant notes that the Examiner talks of Minutoli teaching opposite threading (see page 4, line 4 of the Examiner's Office Action). Minutoli represents threaded portions of the members of Minutoli only schematically. It is not possible to determine the orientation of the threaded members as the Examiner has done.

Furthermore, with respect to claim 29, which calls for the building to have a structural frame at least a portion of which is made from wood, Applicant renews its argument. While it is true that wood is a common building material. Wood behaves in a different way than concrete which is the relevant aspect of the limitation in the claims.

The concrete panels 12, 14 and 16 of Minutoli that the string of reinforcing rods compress are relatively uncompressible members, in comparison to wood framed panels that are expected to shrink (see page 1, line 22 of the present specification). Thus, a structural frame that is at least partially made from wood will have need for this invention, as compared to a building made solely from concrete panels.

#### *Examiner's Section 3. Claim 24*

The Examiner has rejected claim 24 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons as applied to claim 22 and further in view of Greenwood, 459417970 page 318, figure 19 ("Greenwood").

Claim 24 depends from claim 22, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 22. Those arguments and amendment apply equally to claim 24 as it incorporates all of the limitations of claim 22 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 24 is in condition for allowance.

*Examiner's Section 4. Claim 25*

The Examiner has rejected claim 25 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons.

Claim 25 depends from claim 22, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 22. Those arguments and amendment apply equally to claim 25 as it incorporates all of the limitations of claim 22 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 25 is in condition for allowance.

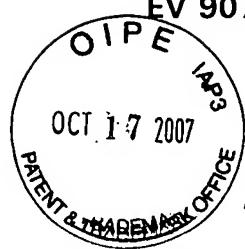
Furthermore, the Examiner says that element 28 of Minutoli corresponds to the locking clip of claim 25, and could be modified to meet all of the limitations of claim 25. Applicant respectfully disagrees. The Examiner has not made a *prima facie* case of obviousness, because the Examiner has incorrectly described the relationship of the parts. Element 28 of Minutoli is attached to plate 26 which the Examiner characterizes as being part of the fastening member. Element 28 would prevent plate 26 from rotating, but it would not prevent bushings 48 and 50 from rotating and moving out of the sleeve 42.

Applicant also fails to see in Minutoli any motivation to make elements 28 threadably releasable from plate 26, since they will be embedded in concrete. Since Minutoli shows plate 26 having two elements 28, it would not be possible to threadably release the plate 26 from both of them after they were embedded in the concrete.

*Examiner's Section 5. Claim 26*

The Examiner has rejected claim 26 under 35 USC § 103(a) as unpatentable over Munutoli in view of Commins and Siemons as applied to claim 22 and further in view of Fuehrer, U.S. Patent No. 3,1118,681 ("Fuehrer").

Claim 26 depends from claim 22, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 22. Those arguments and amendment apply equally to claim 26 as it incorporates all of the limitations of claim 22 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 26 is in condition for allowance.



EV 907490714

PATENT

Attorney Docket No. SST/1355  
SN:10/626,787; Filed July 23, 2003

*Examiner's Section 6. Claim 27*

The Examiner has rejected claim 27 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons as applied to claim 22 and further in view of Greenwood.

Claim 27 depends from claim 22, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 22. Those arguments and amendment apply equally to claim 27 as it incorporates all of the limitations of claim 22 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 27 is in condition for allowance.

***Allowable Subject Matter***

The Applicant would like to thank the Examiner for indicating that claims 23, 30 – 35 and 37 – 39 would be allowable, if written in independent form.

Applicant has not amended these claims at this time. Applicant hopes the Examiner will now consider these claims allowable based on the amendment and arguments raised with respect to claims 22 from which these claims depend.

***Conclusion***

Applicant believes the claims are currently in condition for allowance and respectfully requests the same.

Please direct any calls in connection with this application to the undersigned at (510) 832-4111.

Respectfully submitted,

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